

REMARKS

The above amendments and these remarks are being submitted in response to the Office action dated June 15, 2005 that was issued in connection with the above-identified patent application. Claims 1-36 were pending in the application prior to entry of the above amendments. By the above amendments, Applicants have cancelled claims 30-36 without prejudice in view of the withdrawal of those claims for being directed to a non-elected invention. Applicants have amended independent claim 1 to incorporate the subject matter of claim 7, and have amended claim 8 to reflect the subsequent cancellation of claim 7 without prejudice. Claim 27 has been amended to correct a typographical error. Applicants submit that no new matter has been introduced with the above amendments.

Restriction/election requirement

Applicants affirm the election without traverse to prosecute the invention of claims 1-29, made during the telephone conversation with David D'Ascenzo on April 4, 2005. Claims 30-36, drawn to a non-elected invention, are hereby withdrawn from further consideration and are cancelled without prejudice. Applicants understand that they may resume prosecution of these claims in a related application.

In the Office action, claims 1-6, 14-24, 26 and 27 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,816,457 to Croft ("Croft"). Claims 7-12 were rejected under 35 U.S.C. § 103(a) as being obvious over Croft in view of U.S. Patent No. 5,356,183 to Cole ("Cole"). Claim 13 was rejected

under 35 U.S.C. § 103(a) as being obvious over Croft as modified by Cole and further in view of U.S. Patent No. 2,263,293 to Ewald ("Ewald"). Claim 25 was rejected under 35 U.S.C. § 103(a) as being obvious over Croft in view of U.S. Patent No. 5,115,947 to McDonnell ("McDonnell"). Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as being obvious over Croft in view of U.S. Patent No. 5,895,537 to Campbell ("Campbell").

Applicants have studied the cited references and the reasons expressed in the Office action. Applicants respectfully disagree with the Examiner that the subject matter recited in all of the original claims is anticipated or rendered obvious by the cited references. However, Applicants have amended claim 1 to include the subject matter of original claim 7. Applicants respectfully request reconsideration of the rejections expressed in the Office action in view of the following remarks and amended claim 1, from which all of the other pending claims depend. Applicants are not abandoning the subject matter of the original claims and understand that prosecution of these claims may be resumed in a related application. In view of the above amendments and the following remarks, Applicants respectfully request reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

35 U.S.C. § 102(b) rejections

Amended claim 1 is presented below and is directed to a personal hydration system that includes a reservoir, a downstream assembly that extends from the

reservoir, and a quick-assembly kit having male and female coupling members and a lock member that includes a resilient lock ring that is housed within the female coupling member.

1. (Currently amended) A personal hydration system kit, comprising:

a reservoir having a body portion with an internal compartment adapted to receive a volume of drink fluid, wherein the reservoir includes a selectively sealable fill port having an opening through which drink fluid may be added to or removed from the compartment; and

an elongate downstream assembly extending in fluid communication with the reservoir to define a fluid conduit through which drink fluid may be drawn from the compartment for drinking by a user, wherein the downstream assembly comprises a plurality of fluidly interconnected components selected from the group consisting of a length of hollow drink tubing through which drink fluid may flow, an on/off valve adapted to selectively obstruct the fluid conduit and prevent drink fluid from flowing therethrough, a mouthpiece adapted to dispense drink fluid to a user's mouth, a bite-actuated mouthpiece adapted to dispense drink fluid to a user's mouth upon receipt of user-applied compressive forces to the mouthpiece, an exit port adapted to fluidly interconnect the downstream assembly and the reservoir to permit drink fluid to be drawn from the compartment into the downstream assembly, a gas mask fitting adapted to fluidly interconnect a quick-connect assembly with an intake tube of a gas mask; a filter adapted to selectively remove impurities from the drink fluid flowing therethrough, a refill station adapted to deliver drink fluid to the reservoir through the downstream assembly, and a pump adapted to selectively propel drink fluid through the downstream assembly, and further wherein the downstream assembly further includes at least one quick-connect assembly kit adapted to fluidly interconnect at least two of the plurality of components, wherein the quick-connect assembly kit comprises:

at least one male coupling member having a shaft that includes a tip and which defines at least a portion of a fluid conduit, wherein the male coupling member includes a region distal the tip with a port through which drink fluid may selectively flow into or out of the assembled quick-connect assembly, and further wherein the region includes a mount;

at least one female coupling member having a body with an opening sized to receive at least the tip of a male coupling member, wherein the opening is in fluid communication with a cavity that

extends through the female coupling member to a region distal the opening that includes a port through which drink fluid may selectively flow into or out of the assembled quick-connect assembly, wherein the region includes a mount;

a lock member adapted to releasably and fluidly interconnect a male coupling member and a female coupling member, wherein the lock member is selectively configured between a locked configuration, in which the lock member is configured to retain the male and the female coupling members in fluid interconnection with each other, and an unlocked configuration, in which the lock member is configured to permit the male coupling member to be selectively removed from and inserted into the cavity of the female coupling member,

wherein the mount of a first one of the male and the female coupling members is adapted to be fluidly interconnected with a first one of the plurality of components upstream from a second one of the male and the female coupling members, and further wherein the kit includes at least a pair of the second one of the male and the female coupling members, with the mount of one of the second one of the male and the female coupling members being adapted to fluidly interconnect the assembly with at least a second one of the plurality of components, and

wherein the lock member includes a resilient lock ring adapted to be housed within the female coupling member and including a passage that extends through the lock ring, wherein the lock ring is adapted to selectively engage and prevent removal of the shaft of the male coupling member when the shaft of the male coupling member is at least partially inserted into the passage, wherein in the unlocked configuration the passage is configured to permit the tip of the male coupling member to pass through the passage, wherein in the locked configuration the passage is configured to permit the tip of the male coupling member to enter the passage but to restrict the tip of the male coupling member from passing through the passage, and

further wherein upon configuring the lock member to its unlocked configuration, the second one of the male and the female coupling members may be selectively and interchangeably fluidly interconnected with the first one of the male and the female coupling members.

As discussed above, original claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Croft. In the Office action, the Examiner acknowledged that claim 7, which depended from original claim 1, was not anticipated by Croft. By the

above amendment to claim 1, which incorporates subject matter from original claim 7, Applicants have thus distinguished the subject matter of claim 1 from the disclosure of Croft and obviated the rejection under 35 U.S.C. § 102(b). Applicants respectfully request that the 35 U.S.C. § 102(b) rejection of claim 1 be withdrawn. As well, Applicants request that the rejections of claims 2-6, 14-24, and 26-27 under 35 U.S.C. § 102(b) likewise be withdrawn, as those claims depend from claim 1 and the § 102(b) basis for the rejection of claim 1 has therefore been removed by the above amendment.

35 U.S.C. § 103(b) rejections

However, as expressed in the Office action, original claim 7, which formerly depended from independent claim 1, was rejected as being obvious over Croft in view of Cole. Therefore, the 35 U.S.C. § 103 rejection formerly applicable to claim 7 now applies to claim 1, as claim 1 incorporates the subject matter of original dependent claim 7, which has now been cancelled without prejudice. Regarding claim 7, Croft was cited for disclosing the elements present in original claims 1-6, namely a personal hydration system and various details of a quick connect coupling including a lock member, while Cole was cited for disclosing a quick connect coupling containing a locking ring of resilient material. Therefore, the 35 U.S.C. § 103 rejections require modification of the hydration system of Croft to include the locking ring of Cole.

Applicants have studied the cited references to Croft and Cole, and Applicants submit that the proposed modification, if made, does not result in the claimed subject

matter. Moreover, Applicants believe that this issue becomes moot because the references not only lack the required teaching or motivation to make the proposed combination, but also teach away from the proposed combination. More specifically, there is no teaching or suggestion in Croft to include the resilient locking ring material of Cole and, indeed, the cited references teach away from the specific combination of elements suggested.

In applying 35 U.S.C. § 103, the references must suggest the desirability, and thus, the obviousness of making the combination. As stated by the Federal Circuit in In re Fritch, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992):

[T]he Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. 'The Examiner can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.' ... Under section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. ... This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the invention.'

Id. at 1265-1266 (citations omitted). Moreover, the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. Hodosh v. Block Drug Co., Inc., 786 F.2d 1136 (Fed. Cir. 1986).

Hindsight reconstruction is evidenced by defining the problem in terms of its solution. Monarch Knitting Machinery Corp. v. Sulzer Morat GmbH, 139 F.3d 877, 882 (Fed. Cir. 1998). Here, each of the obviousness rejections set forth in the Office action is defined in terms of the details of the personal hydration system kit presented

in each claim. Applicants submit that this approach is exactly what the cited case law cautions against, as the problem has been defined based upon the solution recited in each claim, and thereby has been defined to encompass non-analogous art, for example the corrugated-pipe connectors of Cole. Accordingly, the rejections are not properly supported and should be withdrawn. For example, one problem expressed in the Office action, namely, providing a personal hydration system kit including a lock member with a resilient ring, has been defined in terms of the solution presented in original claim 7 and amended claim 1. Applicants submit that a lock member including a resilient ring is but one of many possible solutions to the problem of supplying a quick-connect assembly for use in hydration systems. Thus, by defining the problem in terms of its solution, the Examiner has presumed the solution to the problem.

Applicants further note that there is no teaching or motivation to combine the personal hydration system disclosed in Croft with the coupling device of Cole. Perhaps more specifically, Croft discloses a personal hydration system with a quick connect coupling. The coupling is specifically stated to include a recess which is partially obstructed by a locking crescent that is controlled by a spring-loaded release handle (col. 3, lines 38-40). In contrast, Cole discloses a coupling suitable for being fitted onto a length of corrugated elongate tubing and for bringing together two lengths of corrugated tubing (col. 4, lines 19-21). During use, two separate coupling members of similar construction are needed to make an operative connection between two lengths of corrugated tubing (col. 2, lines 47-51 and col. 4, lines 8-10).

Accordingly, there is no need, much less motivation, to provide the coupling of Cole in the quick connect assembly of Croft. Furthermore, Croft teaches away from such a combination because the coupling members of Cole are configured to be attached to an outer surface of corrugated tubing (col. 1, lines 37-40) while Croft discusses a quick connect assembly that inserts into provided tubing (see, for example, col. 3, lines 42-43). Therefore, Croft already provides a quick connect assembly that solves the problem presented by the Examiner.

The combination of the personal hydration system of Cole with the coupling members of Croft to create a personal hydration system kit as claimed by Applicants, having a quick-connect assembly kit as described in claim 1, based solely on hindsight reconstruction, is therefore improper and withdrawal of the rejection is requested. In fact, the law is “clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.” In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) (citations omitted). A suggestion, teaching or motivation to combine or modify references “must be clear and particular.” Id. “Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’” of a suggestion, teaching or motivation to combine references. Id. Furthermore, the Federal Circuit cautioned that combining prior art references without such a teaching, suggestion or motivation, “simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight.” Id.

When determining whether or not there is any suggestion or motivation to combine, each reference must be considered as a *whole*, with its teachings considered only in their proper context. As reiterated by the Federal Circuit in Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 796 F.2d 443 (Fed. Cir. 1986):

It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.

Id. at 448 (quoting In re Wesslau, 353 F.2d 238, 241 (CCPA 1965)). The proper context for the teaching of a reference includes “those portions of the reference that argue[] against obviousness.” Id. at 448 (citing W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1550 (Fed. Cir. 1983)).

Applying the law to the case at hand, Applicants submit that all of the obviousness rejections set forth in the Office action should be withdrawn. Applicants have shown that the 35 U.S.C. § 103 rejection of amended claim 1, based on the proposed combination of Croft and Cole, should be withdrawn because there is no teaching, suggestion or motivation in either reference to modify the disclosures in those references, much less to arrive at the subject matter recited in the pending claims. Therefore, the rejections of claims 2-6 and 8-29 should likewise be withdrawn, as those claims depend from amended claim 1 and should be allowed when amended claim 1 is allowed.

Applicants further submit that the § 103 rejection of original claim 7 (as applied to amended claim 1) should be withdrawn because the proposed combination,

even if made despite the above-discussed lack of teaching or motivation, still fails to produce the personal hydration system recited in amended claim 1. Moreover, Applicants submit that this failure further evidences the fact that the references teach away from the proposed modification. Amended claim 1 recites, amongst other subject matter, a personal hydration system kit with a quick-connect assembly including a resilient lock ring that, when in the locked configuration, is configured “to permit the tip of the male coupling member to enter the passage but to restrict the tip of the male coupling member from passing through the passage.” In contrast to the subject matter recited in claim 1, Croft discloses no details about the function of its quick disconnect portion, while Cole explicitly says that “In its relaxed [locked] state, the [resilient] ring 3” would prevent entry of the end of a conduit into the coupling” (col. 4, lines 66-68; emphasis added). Nowhere in Croft is it disclosed or suggested that the quick connect assembly is configured to allow the male member to enter the passage while the locking mechanism is in the locked position, and the locking mechanism of Cole does not provide this feature. Therefore, Applicants submit that Croft and Cole, in combination, fail to disclose or suggest the personal hydration system kit recited in amended claim 1. Because the proposed combination fails to produce the hydration system recited in amended claim 1, it follows that amended claim 1 should be allowable over the cited references.

For at least the above reasons, Applicants request reconsideration and withdrawal of the rejection of amended claim 1. Claims 2-29 depend directly or indirectly from claim 1 and therefore should be allowed when claim 1 is allowed. For

the purpose of brevity, Applicants are not presenting a discussion of each of these dependent claims or presenting each additional reason why these dependent claims patentably distinguish the cited references. However, Applicants want to briefly mention a few of these dependent claims to present a few additional reasons why the claims should be allowed.

Claim 15 depends from claim 1 and further recites that the kit includes at least one of the female and male coupling member with at least one of the plurality of components (noted in claim 1) integrally formed therewith. Since neither reference discloses one of the plurality of components recited in claim 1 as being integrally formed with either the male or female coupling member, it follows that the references do not disclose or suggest, alone or in combination, the subject matter recited in claim 15. As discussed, the cited references disclose only a quick disconnect valve, and a coupling member for corrugated tubing. Neither reference discloses one of the components recited in claim 1 as being integral with the quick disconnect valve or the coupling member. Accordingly, Applicants request that the rejection of claim 15 be reconsidered and withdrawn.

Claim 17 depends from claim 1 and recites that at least one of the second one of the male and the female coupling members includes an on/off valve adapted to selectively obstruct the fluid conduit to prevent drink fluid from flowing through. Applicants submit that neither Croft nor Cole, nor any combination of those references discloses or suggests the subject matter recited in claim 17. Croft discloses only that an on/off function is provided by a bite valve at a distal end of tubing

connected to a personal hydration system. Cole, on the other hand, discloses no mechanism at all for obstructing fluid flow through the coupling members and, in fact, discloses that the coupling members are meant to connect two lengths of tubing into a greater length that will facilitate fluid flow. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claim 17 for at least this additional reason, in addition to the reasons presented above with respect to claim 1.

In view of the above, Applicants submit that all of the issues raised in the Office action have been addressed and overcome. If there are any remaining issues or if the Examiner has any questions, Applicants' undersigned attorney may be reached at the number listed below. Similarly, if the Examiner believes that a telephone interview may be productive in advancing prosecution of the present application, the Examiner is invited to contact Applicants' undersigned attorney at the number listed below.

Respectfully submitted,

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